

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 100
INCOME TAX

SUBPART A: TAX IMPOSED

Section

100.2000	Introduction
100.2050	Net Income (IITA Section 202)
100.2055	Standard Exemption (IITA Section 204)
100.2060	Compassionate Use of Medical Cannabis Pilot Program Act Surcharge (IITA Section 201(o))

SUBPART B: CREDITS

Section

100.2100	Replacement Tax Investment Credit Prior to January 1, 1994 (IITA Section 201(e))
100.2101	Replacement Tax Investment Credit (IITA 201(e))
100.2110	Investment Credit; Enterprise Zone and River Edge Redevelopment Zone (IITA Section 201(f))
100.2120	Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone and River Edge Redevelopment Zone (IITA Section 201(g))
100.2130	Investment Credit; High Impact Business (IITA 201(h))
100.2135	REV Illinois Investment Tax Credit (IITA Section 237)
100.2140	Credit Against Income Tax for Replacement Tax (IITA 201(i))
100.2150	Training Expense Credit (IITA 201(j))
100.2160	Research and Development Credit (IITA Section 201(k))
100.2163	Environmental Remediation Credit (IITA 201(l))
100.2164	Data Center Investment Credit (IITA Section 229)
100.2165	Education Expense Credit (IITA 201(m))
100.2170	Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)
100.2171	Angel Investment Credit (IITA 220)
100.2175	Invest in Kids Credit (IITA 224)
100.2180	Credit for Residential Real Property Taxes (IITA 208)
100.2181	Credit for Instructional Materials and Supplies (IITA Section 225)
100.2185	Film Production Services Credit (IITA Section 213)
100.2190	Tax Credit for Affordable Housing Donations (IITA Section 214)
100.2193	Student-Assistance Contributions Credit (IITA 218)
100.2195	Dependent Care Assistance Program Tax Credit (IITA 210)
100.2196	Employee Child Care Assistance Program Tax Credit (IITA Section 210.5)

- 44 100.2197 Foreign Tax Credit (IITA Section 601(b)(3))
- 45 100.2198 Economic Development for a Growing Economy Credit (IITA 211)
- 46 100.2199 Illinois Earned Income Tax Credit (IITA Section 212)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS
OCCURRING PRIOR TO DECEMBER 31, 1986

Section

- 100.2200 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Scope
- 100.2210 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) – Definitions
- 100.2220 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Current Net Operating Losses: Offsets Between Members
- 100.2230 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Carrybacks and Carryforwards
- 100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Effect of Combined Net Operating Loss in Computing Illinois Base Income
- 100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS FOR LOSSES
OCCURRING ON OR AFTER DECEMBER 31, 1986

Section

- 100.2300 Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2310 Computation of the Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2320 Determination of the Amount of Illinois Net Loss for Losses Occurring On or After December 31, 1986
- 100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or After December 31, 1986 (IITA Section 207)
- 100.2340 Illinois Net Losses and Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary

- 87 Business Group: Separate Unitary Versus Combined Unitary Returns
 88 100.2350 Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or
 89 After December 31, 1986, of Corporations that are Members of a Unitary
 90 Business Group: Changes in Membership
 91 100.2360 Illinois Net Losses and Illinois Net Loss Deductions for Losses of Cooperatives
 92 Occurring On or After December 31, 1986 (IITA Section 203(e)(2)(F))
 93

94 SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF
 95 INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS
 96

97 Section

- 98 100.2405 Gross Income, Adjusted Gross Income, Taxable Income and Base Income
 99 Defined; Double Deductions Prohibited; Legislative Intention (IITA Section
 100 203(e), (g) and (h))
 101 100.2410 Net Operating Loss Carryovers for Individuals, and Capital Loss and Other
 102 Carryovers for All Taxpayers (IITA Section 203)
 103 100.2430 Addition and Subtraction Modifications for Transactions with 80/20 and
 104 Noncombination Rule Companies
 105 100.2435 Addition Modification for Student-Assistance Contribution Credit (IITA Sections
 106 203(a)(2)(D-23), (b)(2)(E-16), (c)(2)(G-15), (d)(2)(D-10))
 107 100.2450 IIT Refunds (IITA Section 203(a)(2)(H), (b)(2)(F), (c)(2)(J) and (d)(2)(F))
 108 100.2455 Subtraction Modification: Federally Disallowed Deductions (IITA Sections
 109 203(a)(2)(M), 203(b)(2)(I), 203(c)(2)(L) and 203(d)(2)(J))
 110 100.2465 Claim of Right Repayments (IITA Section 203(a)(2)(P), (b)(2)(Q), (c)(2)(P) and
 111 (d)(2)(M))
 112 100.2470 Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the
 113 Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA
 114 Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))
 115 100.2480 Enterprise Zone and River Edge Redevelopment Zone Dividend Subtraction
 116 (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))
 117 100.2490 Foreign Trade Zone/High Impact Business Dividend Subtraction (IITA Sections
 118 203(a)(2)(K), 203(b)(2)(L), 203(c)(2)(O), 203(d)(2)(M))
 119

120 SUBPART F: BASE INCOME OF INDIVIDUALS
 121

122 Section

- 123 100.2510 Subtraction for Contributions to Illinois Qualified Tuition Programs (Section 529
 124 Plans) (IITA Section 203(a)(2)(Y))
 125 100.2565 Subtraction for Recovery of Itemized Deductions (IITA Section 203(a)(2)(I))
 126 100.2580 Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and
 127 203(a)(2)(T))
 128 100.2590 Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and
 129 Water Carriers

SUBPART G: BASE INCOME OF CORPORATIONS

Section

- 100.2655 Subtraction Modification for Enterprise Zone and River Edge Redevelopment Zone Interest (IITA Section 203(b)(2)(M))
- 100.2657 Subtraction Modification for High Impact Business Interest (IITA Section 203(b)(2)(M-1))
- 100.2665 Subtraction for Payments to an Attorney-in-Fact (IITA Section 203(b)(2)(R))
- 100.2668 Subtraction for Dividends from Controlled Foreign Corporations (IITA Section 203(b)(2)(Z))

SUBPART H: BASE INCOME OF TRUSTS AND ESTATES

Section

- 100.2770 Subtraction for Recovery of Itemized Deductions of a Decedent (IITA Section 203(c)(2)(W))
- 100.2775 Subtraction for Refunds of Taxes Paid to Other States for Which a Credit Was Claimed (IITA Section 203(c)(2)(X))

SUBPART I: BASE INCOME OF PARTNERSHIPS

Section

- 100.2850 Subtraction Modification for Personal Service Income or Reasonable Allowance for Compensation to Partners (IITA Section 203(d)(2)(H))

SUBPART J: GENERAL RULES OF ALLOCATION AND APPORTIONMENT OF BASE INCOME

Section

- 100.3000 Terms Used in Article 3 (IITA Section 301)
- 100.3010 Business and Nonbusiness Income (IITA Section 301)
- 100.3015 Business Income Election (IITA Section 1501)
- 100.3020 Resident (IITA Section 301)

SUBPART K: COMPENSATION

Section

- 100.3100 Compensation (IITA Section 302)
- 100.3110 State (IITA Section 302)
- 100.3120 Allocation of Compensation Paid to Nonresidents (IITA Section 302)

SUBPART L: NON-BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

173		
174	Section	
175	100.3200	Taxability in Other State (IITA Section 303)
176	100.3210	Commercial Domicile (IITA Section 303)
177	100.3220	Allocation of Certain Items of Nonbusiness Income by Persons Other Than
178		Residents (IITA Section 303)
179		
180		SUBPART M: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS
181		
182	Section	
183	100.3300	Allocation and Apportionment of Base Income (IITA Section 304)
184	100.3310	Business Income of Persons Other Than Residents (IITA Section 304) – In
185		General
186	100.3320	Business Income of Persons Other Than Residents (IITA Section 304) –
187		Apportionment (Repealed)
188	100.3330	Business Income of Persons Other Than Residents (IITA Section 304) –
189		Allocation
190	100.3340	Business Income of Persons Other Than Residents (IITA Section 304)
191	100.3350	Property Factor (IITA Section 304)
192	100.3360	Payroll Factor (IITA Section 304)
193	100.3370	Sales Factor (IITA Section 304)
194	100.3371	Sales Factor for Telecommunications Services
195	100.3373	Sales Factor for Publishing
196	100.3380	Special Rules (IITA Section 304)
197	100.3390	Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))
198	100.3400	Apportionment of Business Income of Financial Organizations for Taxable Years
199		Ending Prior to December 31, 2008 (IITA Section 304(c))
200	100.3405	Apportionment of Business Income of Financial Organizations for Taxable Years
201		Ending on or after December 31, 2008 (IITA Section 304(c))
202	100.3420	Apportionment of Business Income of Insurance Companies (IITA Section
203		304(b))
204	100.3450	Apportionment of Business Income of Transportation Companies (IITA Section
205		304(d))
206	100.3500	Allocation and Apportionment of Base Income by Nonresident Partners
207	100.3600	Combined Apportionment for Taxpayers Using Different Apportionment
208		Formulas (IITA Section 1501(a)(27))
209		
210		SUBPART N: ACCOUNTING
211		
212	Section	
213	100.4100	Taxable Years (IITA Section 401)
214	100.4500	Carryovers of Tax Attributes (IITA Section 405)
215		

SUBPART O: TIME AND PLACE FOR FILING RETURNS

216		
217		
218	Section	
219	100.5000	Time for Filing Returns (IITA Section 505)
220	100.5010	Place for Filing Returns: All Taxpayers (IITA Section 505)
221	100.5020	Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)
222	100.5030	Taxpayer's Notification to the Department of Certain Federal Changes Arising in
223		Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years
224		(IITA Section 506)
225	100.5040	Innocent Spouses
226	100.5050	Frivolous Returns
227	100.5060	Reportable Transactions (IITA Section 501(b))
228	100.5070	List of Investors in Potentially Abusive Tax Shelters and Reportable Transactions
229	100.5080	Registration of Tax Shelters (IITA Section 1405.5)

SUBPART P: COMPOSITE RETURNS

230		
231		
232		
233	Section	
234	100.5100	Composite Returns: Eligibility (IITA Section 502(f))
235	100.5110	Composite Returns: Responsibilities of Authorized Agent
236	100.5120	Composite Returns: Individual Liability
237	100.5130	Composite Returns: Required forms and computation of Income (IITA Section
238		502(f))
239	100.5140	Composite Returns: Estimated Payments
240	100.5150	Composite Returns: Tax, Penalties and Interest
241	100.5160	Composite Returns: Credits on Separate Returns
242	100.5170	Composite Returns: Definition of a "Lloyd's Plan of Operation"
243	100.5180	Composite Returns: Overpayments and Underpayments

SUBPART Q: COMBINED RETURNS

244		
245		
246		
247	Section	
248	100.5200	Filing of Combined Returns
249	100.5201	Definitions and Miscellaneous Provisions Relating to Combined Returns
250	100.5205	Election to File a Combined Return
251	100.5210	Procedures for Elective and Mandatory Filing of Combined Returns
252	100.5215	Filing of Separate Unitary Returns (IITA Section 304(e))
253	100.5220	Designated Agent for the Members (IITA Section 304(e))
254	100.5230	Combined Estimated Tax Payments
255	100.5240	Claims for Credit of Overpayments
256	100.5250	Liability for Combined Tax, Penalty and Interest
257	100.5260	Combined Amended Returns
258	100.5265	Common Taxable Year

259 100.5270 Computation of Combined Net Income and Tax (IITA Section 304(e))
 260 100.5280 Combined Return Issues Related to Audits

261

262 SUBPART R: PAYMENTS

263

264 Section

265 100.6000 Payment on Due Date of Return (IITA Section 601)

266

267 SUBPART S: REQUIREMENT AND AMOUNT OF WITHHOLDING

268

269 Section

270 100.7000 Requirement of Withholding (IITA Section 701)

271 100.7010 Compensation Paid in this State (IITA Section 701)

272 100.7020 Transacting Business Within this State (IITA Section 701)

273 100.7030 Payments to Residents (IITA Section 701)

274 100.7035 Nonresident Partners, Subchapter S Corporation Shareholders, and Trust

275 Beneficiaries (IITA Section 709.5)

276 100.7036 Withholding of Lottery, Gambling and Sports Wagering Winnings (IITA Section
 277 710)

278 100.7040 Employer Registration (IITA Section 701)

279 100.7050 Computation of Amount Withheld (IITA Section 702)

280 100.7060 Additional Withholding (IITA Section 701)

281 100.7070 Voluntary Withholding (IITA Section 701)

282 100.7080 Correction of Underwithholding or Overwithholding (IITA Section 701)

283 100.7090 Reciprocal Agreement (IITA Section 701)

284 100.7095 Cross References

285

286 SUBPART T: AMOUNT EXEMPT FROM WITHHOLDING

287

288 Section

289 100.7100 Withholding Exemption (IITA Section 702)

290 100.7110 Withholding Exemption Certificate (IITA Section 702)

291 100.7120 Exempt Withholding Under Reciprocal Agreements (IITA Section 702)

292

293 SUBPART U: INFORMATION STATEMENT

294

295 Section

296 100.7200 Reports for Employee (IITA Section 703)

297

298 SUBPART V: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

299

300 Section

301 100.7300 Returns and Payments of Income Tax Withheld from Wages (IITA Sections 704

302		and 704A)
303	100.7310	Returns Filed and Payments Made on Annual Basis (IITA Sections 704 and
304		704A)
305	100.7320	Time for Filing Returns and Making Payments for Taxes Required to Be
306		Withheld Prior to January 1, 2008 (IITA Section 704)
307	100.7325	Time for Filing Returns and Making Payments for Taxes Required to Be
308		Withheld On or After January 1, 2008 (IITA Section 704A)
309	100.7330	Payment of Tax Required to be Shown Due on a Return (IITA Sections 704 and
310		704A)
311	100.7340	Correction of Underwithholding or Overwithholding (IITA Section 704)
312	100.7350	Domestic Service Employment (IITA Sections 704 and 704A)
313	100.7360	Definitions and Special Provisions Relating to Reporting and Payment of Income
314		Tax Withheld (IITA Sections 704 and 704A)
315	100.7370	Penalty and Interest Provisions Relating to Reporting and Payment of Income Tax
316		Withheld (IITA Sections 704 and 704A)
317	100.7380	Economic Development for a Growing Economy (EDGE) and Small Business Job
318		Creation Credit (IITA Section 704A(g) and (h))
319	100.7390	Minimum Wage Tax Credit (IITA Section 704A(i))

SUBPART W: ESTIMATED TAX PAYMENTS

323	Section	
324	100.8000	Payment of Estimated Tax (IITA Section 803)
325	100.8010	Failure to Pay Estimated Tax (IITA Sections 804 and 806)

SUBPART X: COLLECTION AUTHORITY

329	Section	
330	100.9000	General Income Tax Procedures (IITA Section 901)
331	100.9010	Collection Authority (IITA Section 901)
332	100.9020	Child Support Collection (IITA Section 901)

SUBPART Y: NOTICE AND DEMAND

336	Section	
337	100.9100	Notice and Demand (IITA Section 902)

SUBPART Z: ASSESSMENT

341	Section	
342	100.9200	Assessment (IITA Section 903)
343	100.9210	Waiver of Restrictions on Assessment (IITA Section 907)

SUBPART AA: DEFICIENCIES AND OVERPAYMENTS

Section

- 100.9300 Deficiencies and Overpayments (IITA Section 904)
- 100.9310 Application of Tax Payments Within Unitary Business Groups (IITA Section 603)
- 100.9320 Limitations on Notices of Deficiency (IITA Section 905)
- 100.9330 Further Notices of Deficiency Restricted (IITA Section 906)

SUBPART BB: CREDITS AND REFUNDS

Section

- 100.9400 Credits and Refunds (IITA Section 909)
- 100.9410 Limitations on Claims for Refund (IITA Section 911)
- 100.9420 Recovery of Erroneous Refund (IITA Section 912)

SUBPART CC: INVESTIGATIONS AND HEARINGS

Section

- 100.9500 Access to Books and Records (IITA Section 913)
- 100.9505 Access to Books and Records – 60-Day Letters (IITA Section 913) (Repealed)
- 100.9510 Taxpayer Representation and Practice Requirements
- 100.9520 Conduct of Investigations and Hearings (IITA Section 914)
- 100.9530 Books and Records

SUBPART DD: JUDICIAL REVIEW

Section

- 100.9600 Administrative Review Law (IITA Section 1201)

SUBPART EE: DEFINITIONS

Section

- 100.9700 Unitary Business Group Defined (IITA Section 1501)
- 100.9710 Financial Organizations (IITA Section 1501)
- 100.9715 Transportation Companies (IITA Section 304(d))
- 100.9720 Nexus
- 100.9730 Investment Partnerships (IITA Section 1501(a)(11.5))
- 100.9750 Corporation, Subchapter S Corporation, Partnership and Trust Defined (IITA Section 1501)

SUBPART FF: LETTER RULING PROCEDURES

Section

100.9800 Letter Ruling Procedures

SUBPART GG: MISCELLANEOUS

Section

100.9900 Tax Shelter Voluntary Compliance Program

100.9910 State Tax Preparer Oversight Act [35 ILCS 35]

100.APPENDIX A Business Income Of Persons Other Than Residents (Repealed)

100.TABLE A Example of Unitary Business Apportionment (Repealed)

100.TABLE B Example of Unitary Business Apportionment for Groups Which Include Members Using Three-Factor and Single-Factor Formulas (Repealed)

AUTHORITY: Implementing Section 505 of the Illinois Income Tax Act [35 ILCS 5/505] as authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401] and Section 2505-795 of the Department of Revenue Law [20 ILCS 2505/2505-795].

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18

Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; emergency expired April 17, 2004; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004; amended at 28 Ill. Reg. 7125, effective April 29, 2004; amended at 28 Ill. Reg. 8881, effective June 11, 2004; emergency amendment at 28 Ill. Reg. 14271, effective October 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14868, effective October 26, 2004; emergency amendment at 28 Ill. Reg. 15858, effective November 29, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2420, effective January 28, 2005; amended at 29 Ill. Reg. 6986, effective April 26, 2005; amended at 29 Ill. Reg. 13211, effective August 15, 2005; amended at 29 Ill. Reg. 20516, effective December 2, 2005; amended at 30 Ill. Reg. 6389, effective March 30, 2006; amended at 30 Ill. Reg. 10473, effective May 23, 2006; amended by 30 Ill. Reg. 13890, effective August 1, 2006; amended at 30 Ill. Reg. 18739, effective November 20, 2006; amended at 31 Ill. Reg. 16240, effective November 26, 2007; amended at 32 Ill. Reg. 872, effective January 7, 2008; amended at 32 Ill. Reg. 1407, effective January 17, 2008; amended at 32 Ill. Reg. 3400, effective February 25, 2008; amended at 32 Ill. Reg. 6055, effective March 25, 2008; amended at 32 Ill. Reg. 10170, effective June 30, 2008; amended at 32 Ill. Reg. 13223, effective July 24, 2008; amended at 32 Ill. Reg. 17492, effective October 24, 2008; amended at 33 Ill. Reg. 1195, effective December 31, 2008; amended at 33 Ill. Reg. 2306, effective January 23, 2009; amended at 33 Ill. Reg. 14168, effective September 28, 2009; amended at 33 Ill. Reg. 15044, effective October 26, 2009; amended at 34 Ill. Reg. 550, effective December 22, 2009; amended at 34 Ill. Reg. 3886, effective March 12, 2010; amended at 34 Ill. Reg. 12891, effective August 19, 2010;

amended at 35 Ill. Reg. 4223, effective February 25, 2011; amended at 35 Ill. Reg. 15092, effective August 24, 2011; amended at 36 Ill. Reg. 2363, effective January 25, 2012; amended at 36 Ill. Reg. 9247, effective June 5, 2012; amended at 37 Ill. Reg. 5823, effective April 19, 2013; amended at 37 Ill. Reg. 20751, effective December 13, 2013; recodified at 38 Ill. Reg. 4527; amended at 38 Ill. Reg. 9550, effective April 21, 2014; amended at 38 Ill. Reg. 13941, effective June 19, 2014; amended at 38 Ill. Reg. 15994, effective July 9, 2014; amended at 38 Ill. Reg. 17043, effective July 23, 2014; amended at 38 Ill. Reg. 18568, effective August 20, 2014; amended at 38 Ill. Reg. 23158, effective November 21, 2014; emergency amendment at 39 Ill. Reg. 483, effective December 23, 2014, for a maximum of 150 days; amended at 39 Ill. Reg. 1768, effective January 7, 2015; amended at 39 Ill. Reg. 5057, effective March 17, 2015; amended at 39 Ill. Reg. 6884, effective April 29, 2015; amended at 39 Ill. Reg. 15594, effective November 18, 2015; amended at 40 Ill. Reg. 1848, effective January 5, 2016; amended at 40 Ill. Reg. 10925, effective July 29, 2016; amended at 40 Ill. Reg. 13432, effective September 7, 2016; amended at 40 Ill. Reg. 14762, effective October 12, 2016; amended at 40 Ill. Reg. 15575, effective November 2, 2016; amended at 41 Ill. Reg. 4193, effective March 27, 2017; amended at 41 Ill. Reg. 6379, effective May 22, 2017; amended at 41 Ill. Reg. 10662, effective August 3, 2017; amended at 41 Ill. Reg. 12608, effective September 21, 2017; amended at 41 Ill. Reg. 14217, effective November 7, 2017; emergency amendment at 41 Ill. Reg. 15097, effective November 30, 2017, for a maximum of 150 days; amended at 42 Ill. Reg. 4953, effective February 28, 2018; amended at 42 Ill. Reg. 6451, effective March 21, 2018; recodified Subpart H to Subpart G at 42 Ill. Reg. 7980; amended at 42 Ill. Reg. 17852, effective September 24, 2018; amended at 42 Ill. Reg. 19190, effective October 12, 2018; amended at 43 Ill. Reg. 727, effective December 18, 2018; amended at 43 Ill. Reg. 10124, effective August 27, 2019; amended at 44 Ill. Reg. 2363, effective January 17, 2020; amended at 44 Ill. Reg. 2845, effective January 30, 2020; emergency amendment at 44 Ill. Reg. 4700, effective March 4, 2020, for a maximum of 150 days; emergency expired July 31, 2020; amended at 44 Ill. Reg. 10907, effective June 10, 2020; emergency amendment at 44 Ill. Reg. 11208, effective June 17, 2020, for a maximum of 150 days; emergency expired November 13, 2020; amended at 44 Ill. Reg. 17414, effective October 13, 2020; amended at 45 Ill. Reg. 2006, effective January 29, 2021; amended at 45 Ill. Reg. 5523, effective April 15, 2021; amended at 46 Ill. Reg. 13312, effective July 12, 2022; amended at 46 Ill. Reg. 14550, effective August 2, 2022; amended at 46 Ill. Reg. 15317, effective August 24, 2022; amended at 46 Ill. Reg. 18102, effective October 26, 2022; amended at 47 Ill. Reg. 1402, effective January 10, 2023; amended at 47 Ill. Reg. 2093, effective January 24, 2023; amended at 47 Ill. Reg. 5726, effective April 4, 2023; amended at 47 Ill. Reg. 6030, effective April 12, 2023; amended at 47 Ill. Reg. 13669, effective September 11, 2023; emergency amendment at 47 Ill. Reg. 17214, effective November 6, 2023, for a maximum of 150 days; amended at 47 Ill. Reg. _____, effective _____.

SUBPART B: CREDITS

Section 100.2198 Economic Development for a Growing Economy Credit (IITA 211)

- a) *For tax years beginning on or after January 1, 1999, a taxpayer who has entered into an Agreement under the Economic Development for a Growing Economy Tax Credit Act [35 ILCS 10] (EDGETCA), shall be allowed~~shall be allowed~~ a credit against the tax imposed by the Illinois Income Tax Act (IITA)~~HTA~~ Section 201(a) and (b) in an amount to be determined in the Agreement. (IITA Section 211)*
- b) The credit shall be computed as follows:
 - 1) *The credit allowed shall not exceed the Incremental Income Tax with respect to the project. (IITA Section 211(1)) EDGETCA Section 5-5 defines Incremental Income Tax as the total amount withheld during the taxable year from the compensation of new employees, and if applicable, retained employees under Article 7 of the IITA~~HTA~~ arising from employment at a project that is the subject of an Agreement.*
 - 2) *The amount of the credit allowed during the tax year plus the sum of all amounts allowed in prior years shall not exceed 100% of the aggregate amount expended by the taxpayer during all prior tax years on approved costs defined by Agreement. (IITA Section 211(2))*
 - 3) *Pursuant to IITA Section 211(3), the amount of credit shall be determined on an annual basis; provided, however, that:*
 - A) *except in the case of a taxpayer described in subsection (b)(3)(B), the credit against any State tax liability may not extend beyond 10 taxable years after the project is first approved and may not extend beyond the expiration of the Agreement;*
 - B) *in the case of a taxpayer certified by the Department of Commerce and Economic Opportunity (DCEO) under the Corporate Headquarters Relocation Act, the credit may not extend beyond 15 taxable years and may not extend beyond the expiration of the Agreement; provided, that the taxpayer may not claim for any tax year during that period more than 60% of the credit otherwise allowed for that tax year under the EDGETCA (see EDGETCA Section 5-45);*
 - C) *a credit earned within the applicable period specified in subsection (b)(3)(A) or (B) may be carried forward beyond that period pursuant to IITA Section 211(4).*
 - 4) *The credit may not exceed the amount of taxes imposed pursuant to IITA Section 201(a) and (b). (IITA Section 211(4))*

5) In the case of an election under Section 100.7380(a), no credit shall be allowed under IITA Section 211 or this Section for the taxable year of the election.

c) *Any credit in excess of the tax liability for the taxable year may be carried forward to offset the income tax liability of the taxpayer for the next 5 years or until it has been fully utilized, whichever occurs first. The credit shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one tax year that are available to offset a liability, the earlier credit shall be applied first.* (IITA Section 211(4)) In the case of an election under Section 100.7380(a), no credit to which the election applies may be carried forward under IITA Section 211(4) and this Section.

d) *No credit shall be allowed with respect to any Agreement for any taxable year ending after the Noncompliance Date. Upon receiving notification by the Department of Commerce and Economic Opportunity of the noncompliance of a taxpayer with an Agreement, the Department shall notify the taxpayer that no credit is allowed with respect to that Agreement for any taxable year ending after the Noncompliance Date, as stated in such notification. If any credit has been allowed with respect to an Agreement for a taxable year ending after the Noncompliance Date for that Agreement, any refund paid to the taxpayer for that taxable year shall, to the extent of that credit allowed, be an erroneous refund within the meaning of [IITA](#) Section 912. (IITA Section 211(5)) If, during any taxable year, a taxpayer ceases operations at a project location that is the subject of that Agreement with the intent to terminate operations in the State, the tax imposed under subsections (a) and (b) of [IITA](#) Section 201 for such taxable year shall be increased by the amount of any credit allowed under the Agreement for that project location prior to the date the taxpayer cease operations. (IITA Section 211(5)).*

e) In the case of a credit earned by a partnership or Subchapter S corporation, the credit passes through to the owners for use against their regular income tax liabilities in the same proportion as other items of the taxpayer are passed through to the taxpayer's owners for federal income tax purposes. (See IITA Section 211.)

1) The credit earned by a partnership or a Subchapter S corporation will be treated as earned by its owners as of the last day of the taxable year of the partnership or Subchapter S corporation in which the tax credit certificate is issued by DCEO under Section 5-55 of the EDGETCA.

2) The credit shall be allowed to each owner in the taxable year of the owner in which the taxable year of the partnership or Subchapter S corporation

ends and may be carried forward to the 5 succeeding taxable years of the owner until used.

- f) To claim the credit, a taxpayer shall attach to its Illinois income tax return
- 1) a copy of the tax credit certificate and annual certification (if any) issued by DCEO and
 - 2) in the case of a partner in a partnership or shareholder of a Subchapter S corporation that earned the credit, a Schedule K-1-P or other written statement from the partnership or Subchapter S corporation stating
 - A) the portion of the total credit shown on the tax credit certificate that is allowed to that partner or shareholder and
 - B) the taxable year of the partnership or Subchapter S corporation in which the tax credit certificate was issued.

gf) *For purposes of this ~~credit~~^{credit}, the terms “Agreement,” “Incremental Income Tax,” and “Noncompliance Date” shall have the same meaning as when used in EDGETCA Section 5-5. (IITA Section 211(6))*

h) This credit is exempt from the ~~sunset~~^{sunset} provisions of ~~IITA~~^{IITA} Section 250. (IITA Section 211)

(Source: Amended at 47 Ill. Reg. _____, effective _____)

SUBPART V: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section 100.7380 Economic Development for a Growing Economy (EDGE) and Small Business Job Creation Credit (IITA Section 704A(g) and (h))

- a) EDGE Credit. An eligible taxpayer who makes an election under this subsection (a) shall be allowed a credit against payments required under IITA Section 704A equal to the *credits not previously claimed and allowed to be carried forward under IITA Section 211(4) as provided in Section 5-15(f) of the Economic Development for a Growing Economy Tax Credit Act (EDGETCA).* (IITA Section 704A(g)) A taxpayer may make an election under this subsection (a) for taxable years ending on and after December 31, 2009. Only an eligible taxpayer, as defined in subsection (a)(2), may make the election.
 - 1) Effect of Election. When an election under this subsection (a) is made, the amount of the credit awarded to the taxpayer under EDGETCA Section 5-

15 for the taxable year of the election shall be allowed as a credit against payments due under IITA Section 704A for the first quarterly reporting period beginning after the end of the quarterly reporting period in which the credit is awarded~~calendar year beginning after the end of the taxable year in respect of which the election is made.~~ (See EDGETCA Section 5-15(f)(2).) No credit awarded in a taxable year for which the election is made shall be allowed under IITA Section 211.

EXAMPLE: Taxpayer is an eligible taxpayer and makes the election under this subsection (a)(1) for its taxable year ending June 30, ~~2023~~2010. For its taxable year ending June 30, ~~2023~~2010, Taxpayer is awarded a credit under IITA Section 211 of \$10,000. In addition, Taxpayer has credit carryovers under Section 211(4) of \$5000 from ~~2021~~2008, and \$7000 from ~~2022~~2009. Under Section 704A(g) and this subsection (a)(1), Taxpayer is allowed a credit of \$10,000 against withholding payments due under IITA 704A(c) in its first quarterly reporting period that begins after the end of the quarterly reporting period in which the credit certificate is awarded to the Taxpayer~~calendar year 2011.~~ Taxpayer may not claim a credit against the tax imposed under IITA Section 201(a) and (b) for its taxable year ending June 30, ~~2023~~2010, for the \$10,000 credit awarded in that taxable year, but may claim a credit for the amounts carried forward from ~~2021~~2008 and ~~2022~~2009.

2) Eligible Taxpayer Defined. The term "eligible taxpayer" means, with respect to the taxable year for which the election under this subsection (a) is otherwise available:

A) A taxpayer who is primarily engaged (more than 50%) in one of the following business activities: *water purification and treatment, motor vehicle metal stamping, automobile manufacturing, automobile and light duty motor vehicle manufacturing, motor vehicle manufacturing, light truck and utility vehicle manufacturing, heavy duty truck manufacturing, motor vehicle body manufacturing, cable television infrastructure design or manufacturing*~~manufacturing~~, or *wireless telecommunication or computing terminal device design or manufacturing for use on public networks* (EDGETCA Section 5-15(f)(1)) and the taxpayer meets one of the following requirements:

i) *the taxpayer has an Illinois net loss or net loss deduction under IITA Section 207 for the taxable year, employed no less than 1,000 full-time employees (as defined in 35 ILCS 10/5-5) in Illinois on each day of the taxable year, has an*

- 688 *"Agreement" (as defined in 35 ILCS 10/5-5) in effect as of*
 689 *December 14, 2009, and is in compliance with all*
 690 *provisions of that Agreement (see EDGETCA Section 5-*
 691 *15(f)(1)(A));*
 692
 693 ii) *the taxpayer has an Illinois net loss or net loss deduction*
 694 *under IITA Section 207 for the taxable year, employed no*
 695 *less than 1,000 full time employees (as defined in 35 ILCS*
 696 *10/5-5) in Illinois on each day of the taxable year, applied*
 697 *for the "Agreement" (as defined in 35 ILCS 10/5-5)*
 698 *resulting in the credit with respect to which the election is*
 699 *made within 365 days after December 14, 2009*
 700 *(EDGETCA Section 5-15(f)(1)(B));*
 701
 702 iii) *the taxpayer had an Illinois net operating loss*
 703 *carryforward under IITA Section 207 in a taxable year*
 704 *ending during calendar year 2008, has applied for an*
 705 *"Agreement" (as defined in 35 ILCS 10/5-5) by November*
 706 *1, 2010 (150 days after the June 4, 2010 effective date of*
 707 *Public Act 96-905), creates at least 400 new jobs in*
 708 *Illinois, retains at least 2,000 jobs in Illinois that would*
 709 *have been at risk of relocation out of Illinois over a 10-year*
 710 *period, and makes a capital investment of at least*
 711 *\$75,000,000 (EDGETCA Section 5-15(f)(1)(C));*
 712
 713 iv) *the taxpayer has an Illinois net operating loss carryforward*
 714 *under IITA Section 207 in a taxable year ending during*
 715 *calendar year 2009, has applied for an "Agreement" (as*
 716 *defined in 35 ILCS 10/5-5) by August 1, 2011 (150 days*
 717 *after the March 4, 2011 effective date of Public Act 96-*
 718 *1534), creates at least 150 new jobs, retains at least 1,000*
 719 *jobs in Illinois that would have been at risk of relocation*
 720 *out of Illinois over a 10-year period, and makes a capital*
 721 *investment of at least \$57,000,000 (EDGETCA Section 5-*
 722 *15(f)(1)(D)); or*
 723
 724 v) *the taxpayer employed at least 2,500 full-time employees in*
 725 *the State during the year in which the credit is awarded,*
 726 *commits to make at least \$500,000,000 in combined capital*
 727 *improvements and project costs under the Agreement,*
 728 *applies for an Agreement between January 1, 2011 and*
 729 *June 30, 2011, executes an "Agreement" (as defined in 35*
 730 *ILCS 10/5-5) for the credit during calendar year 2011, and*

was incorporated no more than 5 years before the filing of an application for the Agreement. (EDGETCA Section 5-15(f)(1)(E)); or

B) *A taxpayer whose "Agreement" (as defined in 35 ILCS 10/5-5) was executed between January 1, 2011 and June 30, 2011 and who is primarily engaged in the manufacture of inner tubes or tires, or both, from natural and synthetic rubber, employs a minimum of 2,400 full-time employees in Illinois at the time of application, creates at least 350 full-time jobs and retains at least 250 full-time jobs in Illinois that would have been at risk of being created or retained outside of Illinois, and makes a capital investment of at least \$200,000,000 at the project location (EDGETCA Section 5-15(f)(1.5)); or*

C) *A taxpayer whose "Agreement" (as defined in 35 ILCS 10/5-5) was executed by May 14, 2012 (150 days after the December 16, 2011 effective date of Public Act 97-636), and who is primarily engaged in the operation of a discount department store, maintains its corporate headquarters in Illinois, employs a minimum of 4,250 full-time employees at its corporate headquarters in Illinois at the time of application, retains at least 4,250 full-time jobs in Illinois that would have been at risk of being relocated outside of Illinois, had a minimum of \$40,000,000,000 in total revenue in 2010, and makes a capital investment of at least \$300,000,000 at the project location (EDGETCA Section 5-15(f)(1.6)); or*

D) *A taxpayer whose "Agreement" (as defined in 35 ILCS 10/5-5) was executed or applied for on or after July 1, 2011 and on or before March 31, 2012, and who is primarily engaged in the manufacture of original and aftermarket filtration parts and products for automobiles, motor vehicles, light duty motor vehicles, light trucks and utility vehicles, and heavy duty trucks, employs a minimum of 1,000 full-time employees in Illinois at the time of application, creates at least 250 full-time jobs in Illinois, relocates its corporate headquarters to Illinois from another state, and makes a capital investment of at least \$4,000,000 at the project location (EDGETCA Section 5-15(f)(1.7)); or*

E) *A startup taxpayer whose "Agreement" (as defined in 35 ILCS 10/5-5) was executed on or after April 19, 2022 (the effective date of Public Act 102-0700). Any election under this subsection shall be effective unless and until such startup taxpayer has any Illinois*

income tax liability. Any election under this subsection shall automatically terminate when the startup taxpayer has any Illinois income tax liability at the end of any taxable year during the term of the Agreement. Thereafter, the startup taxpayer may receive an income tax credit under IITA Section 211 (see Section 100.2198), taking into account any benefits previously enjoyed or received by way of the election under this subsection, so long as the startup taxpayer remains in compliance with the terms and conditions of the Agreement (EDGETCA Section 5-15(f)(1.8)). "Startup taxpayer" shall have the same meaning as defined in the EDGETCA.

EXAMPLE: Taxpayer is an eligible startup taxpayer and makes the election under subsection (a)(1) for its taxable year ending December 31, 2024. The startup taxpayer was allowed a credit against withholding payments due for each quarter in 2024. At the end of 2024, the startup taxpayer determined it will have an Illinois income tax liability for that taxable year. The election will automatically terminate on December 31, 2024 – the end of the startup taxpayer's taxable year. No credits against withholding payments due under IITA 704A(c) will be permitted for this startup taxpayer beginning with the first withholding quarter of 2025. The startup taxpayer may be eligible to claim an income tax credit under IITA Section 211 for its taxable year ending December 31, 2025, for any credits awarded in 2025.

- 3) Manner of Making Election. *The election shall be made in the form and manner required by the Department and, once made, shall be irrevocable (EDGETCA Section 5-15(f)(3)). The election shall be made by claiming the credit on the withholding return due under IITA Section 704A for the first quarterly reporting period~~quarter~~ of the calendar year beginning after the end of the quarterly reporting period in which the credit is awarded (EDGETCA Section 5-15(f)(2))~~taxable year in which the credit was awarded~~. The election applies to the entire credit awarded for the taxable year under IITA Section 211.*
- 4) Partnerships and S Corporations. A partnership or Subchapter S corporation may be an eligible taxpayer and make an election under this subsection (a). When a partnership or S corporation makes an election under this subsection (a), no credit shall pass through to the partners or shareholders for the taxable year under IITA Section 211.

- 5) *The credit or credits may not reduce the taxpayer's obligation for any payment due under IITA Section 704A to less than zero. If the amount of the credit or credits exceeds the total payments due under Section 704A with respect to amounts withheld during the calendar year, the excess may be carried forward and applied against the taxpayer's liability under Section 704A in the 5 succeeding calendar years, as allowed to be carried forward under IITA Section 211(4), or until it has been fully utilized, whichever occurs first. The credit or credits shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one taxable year that are available to offset a liability, the earlier credit shall be applied first. (IITA Section 704A(g))*

EXAMPLE: Taxpayer is an eligible taxpayer and makes an election under this subsection (a) for its taxable year ending June 30, 2023~~June 30, 2010~~. For its taxable year ending June 30, ~~2023~~~~2010~~, Taxpayer is awarded a credit certificate under IITA Section 211 of \$10,000 during its withholding quarterly reporting period ending June 30, 2023. Under Section 704A(g) and this subsection (a)(5), Taxpayer is allowed a credit of \$10,000 against withholding payments due under IITA 704A(c) in its quarterly reporting period ending September 30, 2023~~calendar year 2011~~. Taxpayer withheld tax during its withholding quarter ending September 30, 2023~~calendar year 2011~~ of \$4,000. Under Section 704A(g) and this subsection (a)(5), Taxpayer's credit may not exceed \$4,000. Taxpayer is allowed to carry forward the \$6,000 excess credit to the 5 succeeding calendar years.

- 6) No credit shall be allowed under IITA Section 704A(g) and this subsection with respect to any amount that would be disallowed as a credit under IITA Section 211(5) due to a Noncompliance Date. (See Section 100.2198(d).)

7) No credit awarded under the EDGETCA for agreements entered into on or after January 1, 2015, except for credits awarded pursuant to Agreements entered into by a startup taxpayer on or after April 19, 2022, under EDGETCA Section 5-15(f)(1.8), may be credited against payments due under this Section. (IITA Section 704A(g))

- b) *Small Business Job Creation Credit. A taxpayer may claim a credit against payments due under IITA Section 704A for the first calendar year ending after the date on which a tax credit certificate was issued under Section 35 of the Small Business Job Creation Tax Credit Act (SBJCTCA). The credit shall be equal to the amount shown on the certificate, but may not reduce the taxpayer's obligation*

for any payment due under Section 704A to less than zero. (IITA Section 704A(h))

1) *If the amount of the credit exceeds the total payments due under Section 704A with respect to amounts withheld during the calendar year, the excess may be carried forward and applied against the taxpayer's liability under Section 704A in the 5 succeeding calendar years or until it has been fully utilized, whichever occurs first. The credit shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one calendar year that are available to offset a liability, the earlier credit shall be applied first.* (IITA Section 704A(h))

2) No credit shall be allowed under IITA Section 704A(h) and this subsection (b) with respect to any payment due under IITA Section 704A after the date a notice of noncompliance is issued to the Department under Section 45 of the Small Business Job Creation Tax Credit Act, as stated in the notification. If any credit has been allowed for a payment due after the date of notice of noncompliance, any refund paid to the taxpayer for that taxable year shall, to the extent of the credit allowed, be an erroneous refund within the meaning of IITA Section 912.

c) For purposes of this Section, *the term "taxpayer" shall include members of the taxpayer's unitary business group.* (IITA Section 704A(g) and SBJCTCA Section 10)

d) The credits allowed under *this Section are exempt from the sunset provisions of IITA Section 250.* (IITA Section 704A(g) and (h))

(Source: Amended at 47 Ill. Reg. _____, effective _____)